01-793

(1)

No. 01-793

12-3-01

In The

Supreme Court of the United States

AUGUSTUS J. SIMMONS,

Petitioner,

vs.

SUPREME COURT OF CONNECTICUT,

Respondent.

On Petition For Writ Of Prohibition Or In The Alternative Mandamus To The Supreme Court Of The State Of Connecticut

PETITION FOR IMPEACHMENT

AUGUSTUS J. SIMMONS, Petitioner
P.O. Box #1
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51 pp

FEDERAL QUESTION PRESENTED

Precise question in *Simmons* case, that is analogous to the *Mondou* case,* was whether rights arising under Federal Regulations promulgated under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), 84 Stat. 1894, 42 U.S.C. § 4601 *et. seq.*, could be enforced as of right, in the courts of the states when their jurisdiction, as prescribed by local laws, is adequate to the occasion.

The pleading to review and act on an action (motion) to IMPEACH a decree by the Connecticut Supreme Court, *Simmons v. Wetherall*, 180 Conn. 587 (1980) – for want of jurisdiction of the subject matter; of the parties; upon wholesale fraud and bad faith by discharged and withdrawn private counsel – [appealing] fabricated and

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* This Court in *Mondou v. New York, N.H. & H.R. Co.*, 223 U.S. at p. 57, 32 S.Ct. at p. 178, 56 L.Ed. 327, 38 L.R.A., N.S. 44 (1911), also cited in *Testa v. Katt*, 67 S.Ct. 810 (1947) made known to the Connecticut Supreme Court that: "[W]hen Congress, in the exertion of the power confided to it by the Constitution, adopted that act (Federal Employees Liabilities Act, 36 Stat. 291, 45 U.S.C. § 51 *et seq.*), it spoke for all the people and all the states, and thereby established a policy for all. That policy is as much the policy of Connecticut as if the act had emanated from its own legislature, and should be respected accordingly in the courts of the state."

Moreover, states may not discriminate against a federal cause of action and "are required to enforce Federal Law [under] the Supremacy Clause of Art. VI of the United States Constitution." *Testa v. Katt*, 330 U.S. 386, 67 S.Ct. 810, 91 L.Ed. 967 (1947); *Household Consumer Discount v. Vespaziani*, 490 Pa. 209, 212, 415 A.2d 689 (1980).

FEDERAL QUESTION PRESENTED – Continued

transmogrified supplementary judgments without statutory authority [C.G.S. § 52-263], right, jurisdiction to have founded, initiated, or brought an action – under FEDERAL or STATE LAW – to the trial court, and continuing, without ever having offered, deposited, or paid any "legal" just compensation since date of taking in 1962.

PARTIES TO PROCEEDING

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PARTIES TO PROCEEDING – Continued

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OPINION BELOW

Where there has not been the commencement of an original (new) action since all condemned real property reverted to the owner on March 24, 1972 at Vol. 52, pages 242-243 of town of East Granby, Conn. land records; there has not been any DOCKETING of any (new) case; NO OPINIONS; NO DECREES; NO JUDGMENTS of or by the trial court (Superior) since March 24, 1972.

JURISDICTIONAL STATEMENT

The jurisdiction of this Court is pursuant to 28 U.S.C. 1257(a), "where any title, right, privilege, or immunity is specially set up or claimed under the Constitution. . . . "

CONSTITUTIONAL PROVISIONS

Art. I § 11 Constitution of Connecticut

The Constitution of Connecticut provides that – "no person shall be deprived of life, liberty, or property, without due process of law."

Amendment XIV, Constitution of the United States

" . . . nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Amendment V, Constitution of the United States

" . . . nor shall private property be taken for public use without just compensation."

STATEMENT OF FACTS

Where the decree, *Simmons v. Wetherall*, 180 Conn. 587 (1980) was rendered with no judgment (by-or-before) the trial court for review by the Supreme Court; without any notices or service of process; without the initiation or returns of any proceedings to the Superior Court that would give the trial court jurisdiction of the subject matter and the parties; without any written offers or written statements of compensation as mandated by Federal and State law; without any appraisals or valuations of any nature; without any reference, mention, inclusion of the F.A.A., a necessary party who invaded the surface of Parcel "C" upon the premise that the sponsor, Conn. Dept. of Transportation would comply with the grant agreement for acquisition; without regard for congressionally mandated and applicable federal regulations promulgated pursuant to the guidelines of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 42 U.S.C. § 4601, *et seq.* (P.L. 91-646 (1971)) ("URA"); where the referee appointed by the Superior Court to assess damages could not file any report with the Superior court upon the "OBLITERATING" of fifteen (15) scheduled hearing dates, (Appendix, Ex. "B"), denying just compensation guaranteed by the

Fifth and Fourteenth Amendments; where private counsel "actively represented conflicting interests" to the prejudice of the owner in attempting to conceal the provisions of Federal Law 42 U.S.C. § 4654 and State Law C.G.S. § 48-17(a) of paying certain litigation expenses where after two (2) null and void condemnations, extending over a ten year period, plaintiff's unnecessary Parcel "A" was ABANDONED and the substantial reimbursement of attorney's fees, costs, etc. denied with the unconstitutional obliterating of (Ex. "B") was pre-planned intentional FRAUD.

Reference being made herein to Exhibit "B", the nucleus of this marathon compensation denial, the petition to test constitutionality, certiorari denied on August 30, 2001 – is resubmitted in the appendix, in addition to Exhibits A, A-1, A-2 for reference purposes and additional facts in support of impeachment.

Nature of the Action

A pleading to review and act on an action (motion) to IMPEACH a decree by the Connecticut Supreme Court, (180 Conn. 587 (1980)) for want of jurisdiction of the subject matter; of the parties; upon wholesale fraud and bad faith by discharged and withdrawn private counsel – [appealing] fabricated and transmogrified supplementary judgments without statutory authority [C.G.S. § 52-263], right, jurisdiction to have founded, initiated, or brought an action, where federal funding and airport projects are involved, to the trial court, and continuing, without ever having offered, deposited, or paid any "legal" just compensation since date of taking in 1962.

Purchase, Exchange, Lease Gift Eminent Domain

Where C.G.S. § 8-129 is the appropriate state statute and 49 C.F.R. § 24.102 is the appropriate federal regulation for the acquisition of "Satisfactory Property Interests" as defined in 14 C.F.R. § 152.3 for Federal-Aid Grant Agreement Real Property, the motion for IMPEACHMENT for "lack of jurisdiction that can be raised at any time, even by the court *suo motu*, wherein the parties cannot confer jurisdiction of the subject matter by consent, waiver, silence, or agreement." (from *Simmons v. State*, 160 Conn. 492 (1971)).

Once brought to the attention of the court, regardless of the form of the motion, it must be acted upon. *East Side Civic Association v. Planning & Zoning Commission*, 161 Conn. 558, 559, 290 A.2d 348 (1971); *Carten v. Carten*, 153 Conn. 603, 610, 219 A.2d 711 (1966). Moreover, "whenever a court discovers that it has no jurisdiction it is bound to dismiss the case, without regard to previous rulings" *Chzrislonk v. N.Y., N.H., & H.R. Co.*, 101 Conn. 356, 358, 125 A. 874 (1924); *Cahill v. Board of Education*, 198 Conn. 229, 238, 502 A.2d 410 (1985).

Fraud

Where the INTENT was to arbitrarily, capriciously, unconstitutionally, by-pass, circumvent, disregard mandatory (URA) federal law (42 U.S.C. §§ 4653, 4654, 4655) in paying litigation expenses and costs upon ABANDONMENT of parcel "A", after two (2) null and void condemnations was malicious, capricious, arbitrary, pre-planned FRAUD that MUST be complied with. In view of the

undisputed fact that the federal act covers ABANDONMENT of the PENDING PROCEEDINGS – They cannot be SHUT-OFF. . . . *WITHOUT A HEARING.*

REASONS FOR GRANTING THE WRIT

I. UNIFORM REAL PROPERTY ACQUISITION REQUIREMENT INCIDENT TO A FEDERAL PROGRAM OR PROJECT.

'SEC. 207 STATE REQUIRED TO FURNISH REAL PROPERTY INCIDENT TO FEDERAL ASSISTANCE (Local Cooperation) (42 U.S.C. § 4627)

Whenever real property is acquired by a state agency and furnished as a required contribution incident to a federal program or project, the federal agency having authority over the program or project may not accept such property unless such state agency has made all payments and provided all assistance and assurances, as are required of a state agency by Sections 210 and 305 of the Act. Such state agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972 such federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance.

SEC. 305 (42 U.S.C. § 4655) REQUIREMENTS FOR UNIFORM LAND ACQUISITION POLICIES; PAYMENTS OF EXPENSES INCIDENTAL TO TRANSFER OF REAL PROPERTY TO STATE; PAYMENT OF LITIGATION EXPENSES IN CERTAIN CASES

Notwithstanding any other law, the head of a federal agency shall not approve any program or project or any grant to, or contract or agreement with, a state agency under which federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of this title, unless he receives satisfactory assurances from such state agency that –

(1) In acquiring real property it will be guided, to the greatest extent practicable under state law, by the land acquisition policies in Section 301 and the provisions of Section 302, and

(2) Property owners will be paid or reimbursed for necessary expenses as specified in Sections 303 and 304.

SEC. 221 EFFECTIVE DATE

(a) Except as provided in Subsections (b) and (c) of this section, this act and the amendments made by this act shall take effect on the date of its enactment.

(b) Until July 1, 1972, Sections 210 and 305 shall be applicable to a state only to the extent that such state is able under its laws to comply with such sections. After July 1, 1972 such sections shall be completely applicable to all states.

That the (URA) Federal Laws. . . . enacted by Congress, apply to the case at bar, being completely applicable to all states, reference in the Supremacy Clause of the United States Constitution to the "Laws of any State" being subordinate to the Constitution and Laws of the United States, is not confined to state statutes but is considered broadly to guarantee the Supremacy of Federal Law. U.S. Const. Art. VI, cl. 2, *Lee v. Board of Higher Education in City of New York*, 1 B.R. 781, 787 n.7 (S.D.N.Y. 1979), citing *Standard Scale v. Farrel*, 249 U.S. 571, 576, 39 S.Ct. 380, 382, 63 L.Ed. 780 (1919) (Brandeis, J.)

It has been said that the Supremacy Clause "prevents a state from frustrating even the spirit of a federal law." *Handsome v. Rutgers University*, 445 F.Supp. 1362, 1367 (D.N.J. 1978).

While private parties are bound to observe only the letter of the law, the state may not by its actions "retard, impede, burden, or in any manner control, the operation of the laws. . . . enacted by Congress." See *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316, 436, 41 L.Ed. 579 (1819) (Marshall, Ch. J.).

II. GENERAL JURISPRUDENCE

Where there was no action founded, initiated, or brought to the trial court, the denial of a *DAY IN COURT* that is so basic and fundamental to real property acquisition, after decades of "bumbling", mandates IMPEACHMENT under the General Jurisprudence of Connecticut practice as found in the cite of *Russo v. Watertown*, 184 Conn. 30, 33-34, 441 A.2d 56 at 58 (1981) stating: "[i]t is in recognition and implementation of the basic principle

that due process of law requires that the rights of no man shall be judicially determined without affording him a day in court and an opportunity to be heard." *Benz v. Walker*, 154 Conn. 74, 77, 221 A.2d 841 (1966).[1]

Since the record does not indicate that all persons having a legitimate interest in the subject matter are parties to the action or were given reasonable notice thereof, the trial court (Supreme Court) was without Jurisdiction. (Emphasis added). *Wenzel v. Danbury*, 152 Conn. 675, 211 A.2d 683 (1965).

III. RIGHT TO APPEAL

The right to appeal exists only by virtue of statutory authority. *State v. Alexander*, 170 Conn. 337, 342, 365 A.2d 1032 (1976) that must be found in the general appeal statute, general statutes § 52-263, which permits an appeal by a party aggrieved by a final judgment of the superior court.

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[1] We have stated: " 'It is the settled rule of this jurisdiction, if indeed it may not be safely called an established general jurisprudence that no court will proceed to the adjudication of a matter involving conflicting rights and interests until all persons directly concerned in the event have been actually or constructively notified of the pendency of the proceeding, and given reasonable opportunity to appear and be heard. This firmly fixed limitation, which, in effect if not technically in all cases is a jurisdictional one, is as binding in english practice as it is with us.' " *Manafort Bros. v. Kerrigan*, 154 Conn. 112, 114, 222 A.2d 218 (1966); *Corsino v. Grover*, 148 Conn. 299, 309, 170 A.2d 26 (1961); *Ackerman v. Union & New Haven Trust Co.*, 91 Conn. 500, 508, 100 A. 22 (1917).

Section 52-263 provides that in proceedings before the superior court "if either party is aggrieved by the decision of the court or judge upon any question or question of law arising in the trial . . . he may appeal to the court having jurisdiction from the final judgment."

With no action founded, initiated, or brought to the trial court, the masoverading by discharged and withdrawn private counsel acting as "THE COURT" appealing to the supreme court with fabricated supplementary judgments under *Simmons v. Wetherall*, # 163875, the tort action that had its scheduled hearing dates for damages "DERAILED". such act by the supreme court acting wit. No record before the superior court is subject to IMPEACHMENT.

IV. IMPEACHMENT

Where the rule of law is succinctly stated in *O'Leary v. Waterbury Title Co.*, 117 Conn. 39, 43, 166 A. 673, 675 (1960); "A court is without power to render a judgment if it lacks jurisdiction of the parties or of the subject matter, one or both. In such cases the judgment is void, has no authority and may be impeached."

As it was stated in *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat) 304, 364, 4 L.Ed. 97 (1816), cited by this court in *Clover v. Urban*, 108 Conn. 13, 17, 142 A. 389, 390 (1929): "It is an acknowledged principle of . . . . every court in the world, that not only the decisions, but everything done under the judicial process of courts not having jurisdiction are *ipso facto* void." See also *Marshall v. Clark*, 170 Conn. 199, 365 A.2d 1202 (1976).

After the Supreme Court ruling a double-header condemnation attempt of real property null and void in 1971 (160 Conn. 492) and the Superior Court had title and ownership revert back to the owner on the land records at Vol. 52, pp. 242-243 (1972) of Town of East Granby, Connecticut and the owner exercising his CONSTITUTIONAL RIGHTS to discharge the private negotiators, not tender any deeds or accept, take, use, or assign any fraudulent VERBAL offers from "TURNCOAT" private counsel on April 19, 1978; regardless of whether the offers were verbal or written, constitutional or unconstitutional, for private or public use, and, upon WITHDRAWAL from representation of the owner on same date, April 19, 1978 and the initiating of a lawsuit for counsel fees, in lieu of a lawsuit for property acquisition against the owner/plaintiff on April 20, 1978 was the *FINAL CHAPTER* - against any and all legal court or town record filing - or appearances.

V. REASONS FOR IMPEACHMENT

From *Serrani v. Board of Ethics*, 225 Conn. 305, 622 A.2d 1009 (1993) at 1011, a case - on point - for impeachment reads: "Jurisdiction of the subject matter is a question of law and cannot be waived or conferred by consent either in the trial court or here . . . Once brought to the attention of the court, regardless of the form of the motion, it must be acted upon." *In re Judicial Inquiry no. 85-01*, 221 Conn. 625, 629, 605 A.2d 545 (1992). Practice Book 143, 145.

From *Serrani supra*, 1012 "Unless all persons having an interest in the subject matter of the complaint are

parties to the action or have reasonable notice thereof" the court does not have subject matter jurisdiction.

In the null and void ruling by the State Supreme Court in *Simmons v. State*, 160 Conn. 492 (1971), this same court ruled: "Questions of lack of jurisdiction may be raised at any time, even by the court suo motu. The parties cannot confer jurisdiction of the subject matter by consent, waiver, silence, or agreement." That *Simmons v. Wetherall* #163875 was not in the [General Class of Cases] that could confer subject matter jurisdiction; by transmogrification: in trying to avoid initiating an independent action that is unequivocally necessary to get the necessary parties before the court, the cites listed are determinative. "Subject matter jurisdiction is the power of the court to hear and determine cases of the general class to which the proceedings in question belong. *Leconche v. Elligers*, 215 Conn. 701, 709, 579 A.2d 1 (1990) quoting *Shea v. First Federal Savings & Loan of New Haven*, 184 Conn. 285, 288, 439 A.2d 997 (1981)."

VI. CONCLUSION

An action (motion) for the IMPEACHMENT of the decree by the Connecticut Supreme Court (180 Conn. 587 (1980)), and, all subsequent decisions relating to the same subject matter, where serious jurisdictional defects of want of jurisdiction can be raised, at-any-time; where there has not been any action or proceedings, of any nature, initiated before the court of competent jurisdiction (superior) since 1972 for acquisition of the subject properties; NO FINAL judgments; NO decrees, judgments from the appointed referee or the Superior Court;

the Supreme Court had no power for manifest want of jurisdiction to make an adjudication.

Where discharged and withdrawn private counsel with no authority, right, jurisdiction, power to make any submissions to the Superior or Supreme Court was making misrepresentations of fact; concealment of fact – and law, to the Supreme Court to deny just compensation of four (4) decades is a proceeding that is repugnant to the judicial DUE PROCESS mandated by the constitution, treaties, laws of the United States; repugnant to federal regulation mandated by (URA), Uniform Real Property Acquisition Act.

The motion for IMPEACHMENT is the most recent attempt to conclude this endless saga where Plaintiff's petition to test constitutionality was returned on August 30, 2001 for reasons of being (out-of-time) on one of three exhibits; despite NO hearings or proceedings – EVER – on any issue, does not apply. Where the court said in *Handler v. Remington Arms Co.*, 144 Conn. 316, 321, 130 A.2d 793, 795 (1957), "When the wrong sued upon consists of a continuing course of conduct, the statute does not begin to run until the course of conduct is completed." *Vilcinskas v. Sears Roebuck & Co.*, 144 Conn. 170, 174, 127 A.2d 814 (1956).

"Damages sustained in a taking by eminent domain are to be measured as of the date of taking." *Research Associates inc v. New Haven Redevelopment*, 152 Conn. 137, 139, 204 A.2d 833 (1965); *Slavitt v. Ives*, 163 Conn. 198, 207, 303 A.2d 13 (1972).

Under special Act #170, *Simmons v. Wetherall* #163875, the State Supreme Court could exercise jurisdiction only "Under the precise circumstances and in the manner particularly prescribed by the enabling legislation." *Heiser v. Morgan Guaranty Trust Co.*, 150 Conn. 563, 565, 192 A.2d 44 (1963); *Castro v. Viera*, 207 Conn. at 427-428 (1988).

Pursuant to 42 U.S.C. §§ 4653, 4654, 4655; § 4655(2) reads: Property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 (4653 and 4654). Such provisions eliminate completely the attempt by the Connecticut Supreme Court to, sua sponte, destroy forty (40) years of *Vested Rights*.

Plaintiff/Owner should not be subjected to two different versions of jurisdiction between the Trial Count and Supreme Court, that the misrepresentations by private counsel to the Supreme Court relative to VERBAL OFFERS and JUST COMPENSATION was a "BUMMER" is verified by the return to the Treasury on December 23, 1991 of the unconstitutional slush fund.

That the encumbering of the properties with fabricated and transmogrified supplementary judgments by withdrawn counsel was a "BUMMER" is evidenced by the dissolution of attachments per C.G.S. § 52-327 by the owner on December 2, 1996.

The verity of the record mandates IMPEACHMENT to remove the barrier denying just compensation guaranteed by the Fifth and Fourteenth Amendments.

Respectfillly submitted,

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Windsor, CT 06095
(860) 569-6714

[EXHIBIT A]

IN THE
SUPREME COURT OF THE
STATE OF CONNECTICUT

Augustus J. Simmons
vs.
Connecticut Supreme Court

June 11th, 2001

(Filed June 14, 2001)

Petition to test the constitutionality of decrees, decisions, actions of the Supreme Court of Connecticut against a Federal-Aid Grant Agreement, #9-06-009-5708 (1955), entered into between United States of America (F.A.A.) and the State of Connecticut (Department of Transportation) for Airport Real Property Acquisition.

NATURE OF THE ACTION

1) This petition to test the constitutionality and jurisdiction of decrees, decisions, actions by the Supreme Court of Connecticut against the unconstitutional and fraudulent acts and conduct of private counsel is submitted pursuant to Federal-Aid Grant Agreements entered into between the United States of America (F.A.A.) and the Connecticut Department of Transportation, Sponsor of Bradley Airport, which grants control the procedures and the law to be applied, notwithstanding any other State Law. (42 USC § 4655)

C.G.S. § 8-129
PURCHASE, EXCHANGE, LEASE, GIFT, EMINENT DOMAIN

2) Where CGS § 8-129 is the appropriate State Statute and 49 CFR § 24.102 is the appropriate Federal Regulation for the acquisition of "Satisfactory Property Interests" as defined in 14 CFR § 152.3 for Federal-Aid Grant Agreement Real Property, the petition to test the constitutionality and jurisdiction of the acts of and by the Connecticut Supreme Court under the due process and equal protection clauses of the Constitution are hereby challenged.

TENURE OF ROGIN-HIRTLE, ESQ'S

3) Where the record shows the retaining of the Rogin-Hirtle Law Firm for fifteen (15) days of previously scheduled hearings for damages before Referee Shapiro, L. with an appearance on December 13, 1977.

The record is unequivocally clear that the Rogin-Hirtle Firm was DISCHARGED on December 23, 1977 for unconstitutional conduct and pre-planned denial of just compensation.

The record shows a second notice (discharge) on April 12, 1978 that Plaintiff/Owner WILL NOT participate in any further activity with the Rogin-Hirtle Firm.

Notwithstanding, in disregard of the terminations, the record shows an attempted closing for the purpose of acquiring deeds to the properties on April 19, 1978, and, the Firm was told to take a long walk on a short pier.

The record further shows a WITHDRAWAL, same day, April 19, 1978 upon Plaintiff/Owner's refusal to tender any deeds.

The aftermath record shows the Rogin-Hirtle Firm enlisting a sheriff to attach all Plaintiff/Owner's properties on April 20, 1978 which, without question, terminated the counsel-client relationship, also, terminated the authority, power to act, jurisdiction, right to represent Plaintiff/Owner, in any capacity, after April 20, 1978.

UNCONSTITUTIONAL IRREGULARITIES & CONDUCT

4) Without any authority, jurisdiction, right to act, without any right to initiate any proceedings before the Superior Court there was:

NEVER, a written offer or a written statement of compensation submitted to the Owner.

NEVER, a written statement of compensation submitted to the Clerk of the Court and the Town Clerk as mandated by CGS § 8-129.

NEVER, was there notice and service to lien-holders, same as to the Owner, as mandated by CGS § 8-129.

NEVER, could there be any submissions of stipulations, contracts, agreements to Superior Court after WITHDRAWAL.

NEVER, has the Sponsor, Connecticut Department of Transportation initiated any kind of action before the Superior Court since title and ownership reverted back to

the Owner on March 24, 1972 at Vol. 52, page 242-243 of East Granby Land Records.

NEVER, can the Courts alter, modify, change, disregard a legislative mandate for damages initiated January 2. 1970 pursuant to Special Act #170 (1969).

NEVER, can private counsel scheme, set aside, cancel, nullify, combine with fraudulent INTENT on December 13, 1977 a valid ejectment judgment after thirty (30) trial days, with appraisals, before Referee Shapiro that has been on court records since January, 1977 that established just compensation from date of taking in 1964 thru 1969 under Docket #162923 – THAT MUST BE PAID – with interest pursuant to the 5th and 14th Amendments.

NEVER, in any jurisdiction in the United States can private counsel (including Rogin-Hirtle) act as a competent Court of Jurisdiction to take real property, without proceeding under some statute or regulation, without referring the matter to a Court of Competent Jurisdiction.

NEVER, after discharge and withdrawal on April 19 1978 can any validity be ascribed to the unconstitutional fraudulent withdrawal of Federal Court cases – that must be reinstated.

NEVER, can #163875, a legislative mandated tort action confer subject matter jurisdiction or constitutionality on any court.

NEVER, after discharge and withdrawal with the encumbering of the properties over the name of Referee Shapiro who, would not, did not dignify the unconstitutional fraudulent activity by not submitting any decrees, decisions, recommendations, whatsoever, back to the

Superior Court from which he was appointed by Hon. Dannehy, Judge in June of 1975.

NEVER, could the unconstitutional and fraudulent "Slush Fund" be dispersed with no proceedings or court orders before the Superior Court and was returned to the Treasury on December 23, 1991.

NEVER, can or should the Supreme Court act to take real property where there are no proceedings before the Superior Court; no notice or service on the necessary and interested parties; no written offers or statements of compensation; no appraisals or valuations of any nature; no compliance with Congress mandated Federal Regulations where Federal-Aid Grant Agreements are at issue as in case at bar, and, disregard or recognition of previous rulings by the same court for the same subject matter. (160 Conn. 492 (1971))

SUPREME COURT IRREGULARITIES

5) Where there was never any notice or service on interested parties as required by Statute and there was no return of service to the Court of Competent Jurisdiction, the Connecticut Supreme Court was acting without the lower court acquiring jurisdiction of the subject matter, jurisdiction of the parties.

6) Where there was never any written statements of valuation or compensation to the Clerk of the Court or the Town Clerk as mandated by State Statute (CGS § 8-129) and Federal Regulation, the acts of the Supreme Court, without such basic mandatory constitutional submission before the Superior Court, was unconstitutional.

7) Where there are no pleadings, no decisions, no judgments of or by the Superior Court who have exclusive jurisdiction for the taking of real property, the transmogrification of Plaintiff's tort action by the Supreme Court into an eminent domain action is unconstitutional.

8) Where there was intrusion on the surface of the property by the Federal Agency (FAA) during the summer of 1962; where the State Agency (Connecticut Department of Transportation) initiated the first null and void condemnation (135 Conn 351) in January 1964 in attempts to comply with the Federal-Aid Agreement; where the family farm was subdivided on November 12, 1964 to confine the federal activity to an area known as Parcel "C" on map book #12, page 568 of the Town of East Granby Land Records, the TAKING DATE for purposes of compensation is November 12, 1964 (See CGS § 48-12)

9) Where the FAA, who have exclusive jurisdiction over the navigational instrumentation on Plaintiff's Parcel "C" is a party to the Federal-Aid Grant Agreement; a party to fraudulent leases from the Sponsor; was never mentioned or made a party in interest, such exclusion is unconstitutional

10) Where the Federal Regulations promulgated pursuant to the Uniform Real Property Acquisition Act (P.L. 91-646 (1971)) and are mandatory on ALL states no later than July 2, 1972 (Title II 84 Stat. 1904, Sec b), the total disregard of the regulations is a denial of equal protection of Federal Law and unconstitutional.

11) Where after two (2) null and void condemnations, all condemned real property reverted to the Owner on March 24, 1972 at Vol. 52, pages 242-243 of E.G.L.R. with

the abandonment of Parcel "A" without resolution of damages; with Parcel "C" having been put to a public use no later than November 12, 1964 and the owner having to start paying taxes again for a Federal installation, in lieu of being paid just compensation was unconstitutional, punitive, a most flagrant violation of the 5th and 14th Amendments.

12) Where there is not, has not, been any action of any type or nature initiated before the Court of competent jurisdiction for the acquisition of the subject property since reverting on March 24, 1972; where there is not, cannot be any court orders for the payment of just compensation; where pursuant to CGS § 48-21, 8-129 lien holders must be paid first, and several lien holders remain on the land records, the denial of just compensation to the Owner for THIRTY-SEVEN (37) years by the Connecticut Supreme Court; the foreclosing of Plaintiff from seeking damages in May, 2000 is the most grossly unconstitutional violation of the 5th and 14th Amendments.

13) Where the FAA has been relying on fraudulent leases from the Sponsor, in lieu of negotiating with the Owner; is responsible for 90% of the acquisition cost of Parcel "C" and has not paid any compensation to the Owner or the Sponsor, such trespassing is unconstitutional and violative of the 5th and 14th Amendments.

14) Where private counsel (Rogin-Hirtle) engaged in unconstitutional and deceptive practices on December 12, 197", before filing an appearance on December 13, 1977 to have the Owner stipulate to the withdrawal of two (2) pending Federal Court Cases; including 472 F2d 509

remanded by the Second Circuit Appeals Court for the placement of navigational instrumentation on private property without compensation, the preplanned contention to the Owner that no offer could be made until the Federal Court Cases are withdrawn was malicious fraud, an unconstitutional deprivation of just compensation, unconstitutional conduct that contributed to the discharge of the Rogin-Hirtle Law Firm on December 23, 1977.

15) Where the first order of business after filing an appearance on December 13, 1977, without any appearances on the short calendar, was the combining of cases that was an unconstitutional subterfuge to remove Docket #162923 denying just compensation for the years 1964-1969 and an attempt to shield, conceal the provision of Referee Shapiro – not to renew any leases by the Sponsor to the F.A.A. of Parcel "C".

16) Where the preplanned, malicious, unconstitutional SCUTTLING of fifteen (15) hearing dates for just compensation (damages) on December 13, 1977 contributed to the discharge on December 23, 1977; it was also a most flagrant violation of the 5th and 14th Amendments by the Supreme Court; in violation of the Constitution and Laws of the United States.

17) Where after discharge on December 23, 1977 police power tactics were imposed upon the Owner to sign a stipulation, without any written offers, or, written statements of compensation, the Owner tore up the stipulation and submitted a Second Notice of Dismissal on April 12, 1978.

18) Where after the second dismissal, the Rogin-Hirtle Firm still attempted a closing on April 19, 1978 to obtain deeds from the Owner and the Owner told the Law Firm to take a long walk on a short pier, all counsel submitted a WITHDRAWAL from Simmons' matters, ending any authority, right, jurisdiction, power to submit stipulations, monies motions to the Court of Competent Jurisdiction; where the acquisition of the necessary property interests can be accomplished by deed or condemnation only, and no further condemnations were ever instituted after two failures, the TITLE and OWNERSHIP remain with the Owner.

19) Where after two (2) discharges and a WITHDRAWAL the Rogin-Hirtle Law Firm, retained on a contingency basis, put a property attachment on Plaintiff/Owner's properties for legal fees on April 20, 1978, the authority, right, jurisdiction, power to represent Plaintiff, or file any papers, motions, attachments on the land records or with the Court were totally and completely ELIMINATED.

20) Where the filing on the land records of supplementary judgments and citations of and by the Rogin-Hirtle Firm on June 2nd and 5th, 1978, after WITHDRAWAL was FRAUD; where the Firm could not file or return any notice or service with the Superior Court; wherein no notice or service could not, was not ever made, the rendering of a decree by the Supreme Court without NOTICE, SERVICE, DOCKET#, DECISION, OR JUDGMENT by the Court below is subject to challenge as being in violation of the due process and equal protection clauses of the Constitution. The fact that the Owner was maliciously omitted from the citation is a clear indication

that the act was a reprisal against the Owner for not tendering any deeds and a police power tactic to FREEZE the property unlawfully without any compensation.

JURISDICTION

21) Where it is exceedingly clear that private counsel DO NOT have the power, authority, jurisdiction to render judgments for the taking of real property; where the Superior Court has exclusive authority and power over real property matters and there is NO RECORD before the Superior Court of the subject property, and, the Supreme Court, by Statute, can only review judgments of the lower court, the decision of the Supreme Court (180 Conn 587 (1980) and its constitutionality is challenged along with the lack of jurisdiction.

22) Where the record shows the Chief Clerk, Lucian Lachamovitz calling attention to the Hon. John Daly of the citation of *Shelton v. Wolthausen*, 80 c 599 on August 30, 1979, *prior* to the Supreme Court decision of May, 1980, whereby funds deposited with the Court cannot be paid without proceedings before the Court or a Court Order. The unconstitutional, illegal, fraudulent "Slush Fund" submitted to the Court by the withdrawn Rogin-Hirtle Law Firm in June of 1978 was returned to the Treasury on December 23, 1991 for reasons of no proceedings before the Superior Court and Lack of Jurisdiction of the subject matter and the parties.

23) Where the Superior Court was challenged on June 7, 1982 by the Attorney General's Office with lack of jurisdiction of the subject matter and private counsel Walter Bass challenged the Court with lack of jurisdiction of the

parties, before Hon. Dupont, A., plus the fact that the State never got deeds to the property, no funds from the "Slush Fund" could or were dispersed; where the challenge to the Superior Court is tantamount to, is equal to a challenge of the Supreme Court – that can only act in review of the lower court.

24) Where Referee Shapiro, L. could not, did not make any reports, decisions, judgments back to the Superior Court from which he was appointed; where Referee Shapiro acknowledged by memo to Jason Pearl, Esq. representing Rogin-Hirtle's in August 1980, AFTER the Supreme Court decision of May, 1980 that no notice or service was made on more senior lien-holders. He did not have the time or staff and the matter should be referred back to the Superior Court.

25) Where the WITHDRAWN private counsel encumbered the properties without a pre-deprivation hearing; without a post-deprivation hearing and the United States Supreme Court has ruled numerous times that a hearing must be provided within a respectable time period; the denial by the State Supreme Court of such basic due process protection against illegal and unlawful encumbrances is unconstitutional.

Where the Owner filed a "Dissolution of Attachments" on the land records on December 1, 1996 pursuant to CGS § 52-327 that nullifies all attachments after fifteen (15) years where no execution was made, reinforces the Owner's challenge against the Supreme Court of Connecticut on unconstitutionality of decrees.

FRAUD

26) Where, without any appraisals, valuations, of any nature the Rogin-Hirtle Law Firm attempted to circumvent mandatory State and Federal Law of written statements of offer and compensation with a VERBAL proposal was FRAUD.

27) Where the discharged and withdrawn Law Firm continued to masquerade as "THE COURT" was constructive FRAUD.

28) Where the discharged and withdrawn Law Firm incorporated a citation on the Land Records at Vol. 59, pages 661-662, knowing they could not submit any process to the Superior Court was FRAUD.

29) Where the Rogin-Hirtle Firm intentionally, deliberately deceitfully excluded the unconstitutional acts of the F.A.A. and Connecticut Department of Transportation engaging in lease after lease after lease of Plaintiff's Parcel "C" without notice or compensation to the Owner, having full knowledge that no action of any type or nature was initiated for the legal acquisition was fraud, deceit by counsel against the Owner, unconscionable, unconstitutional acting in bad faith against the Owner, knowing they had no authority or jurisdiction to submit such unconstitutional activity to the Superior Court and the Supreme Court should not have given any stamps of approval for such brazen fraud.

COMPENSATION

30) Where there was no reference or consideration whatsoever for damages, interest, date of taking,

appraisals as mandated by State and Federal Law, it becomes obvious that such drastic constitutional violations, that cannot be detected or referenced with a VERBAL offer, could not, should not have resulted in a decree by the State Supreme Court under Plaintiff's private tort action that is not in a class of cases for eminent domain purposes.

Where the total deprivation of just compensation for thirty-seven (37) years involving a Federal-Aid Agreement is arbitrary, capricious, unconstitutional, a deprivation of rights guaranteed by the Constitution; and, where the Plaintiff/Owner has been filing motion, after motion, after motion toward resolution, only to have the Supreme Court of Connecticut declare no further motions for pursuit of just compensation under the legislative mandate will be permitted, makes a mockery of the 5th and 14th Amendments, "Nor shall private property be taken without just compensation."

DOCKET #163875

31) Docket #163875, a private tort action, does not confer subject matter jurisdiction for eminent domain purposes on any court.

32) #163875, a legislative mandate pursuant to Special Act #170 of the 1969 Legislature became subservient to CGS § 46-17(a) as a result of the Uniform Acquisition Act (1971) mandate on ALL states no later than July 2, 1972.

33) Damages (vested rights) must be addressed pursuant to 42 USC §§ 4653, 4654, 4655 of Federal Law before title can be acquired.

34) Where hearing dates under Docket #163875 were side-tracked on December 13, 1977 by Rogin-Hirtle, Esq.'s and subsequently – reinstated – by the State Supreme Court to render the decree under (*Simmons v. Wetherall*, 180 Conn 587) is illegal, unlawful, unconstitutional and a knowing deprivation of just compensation under the 5th and 14th Amendments.

CONTRACT

35) The entering into an agreement, #9-06-009-5708 (1955) between the State and Federal Agencies for the specific purpose of acquiring a portion of the family farm determines a CONTRACT could be implied, in fact, where the officials of government, acting under authority of congress took property for public use, makes the Owner a third-party beneficiary.

DEED OR CONDEMNATION

36) Where the owner refused to take, use, entertain, assign any monies of the "FRAUDULENT VERBAL OFFER"; where the Owner was not a "WILLING SELLER" by refusing to convey any deeds; where the Rogin-Hirtle Law Firm – left the stage – upon not acquiring the necessary deeds; the Sponsor, Connecticut Department of Transportation is, was, continues to be obligated to comply with 49 CFR § 24.102 and CGS § 5-129.

APPELLATE COURT - CONSTITUTIONALITY

37) Docket #162923, a valid bona-fide judgment regards Parcel "C" based on appraisals by John Rowlson Firm and thirty (30) trial days over a one year period awarding compensation from 1964 (taking date) to 1969 from which Docket #199230 would overtake to pick up the action from 1969 to current status was submitted to the Superior Court by Referee Shapiro in January, 1977. The 30 trial days distinguished Referee Shapiro as VERY HONORABLE, FAIR, UNDERSTANDING OF THE ISSUES, and not SUBJECT TO POLITICAL PRESSURES.

38) Referee Shapiro *would not, did not* succumb to the unconstitutional, fraudulent activity of Rogin-Hirtle under Docket #163875, consequently, NO reports, decisions, judgments were ever submitted back to the Superior Court. The filing of the fraudulent encumbrances on the land records was done in a fashion or mode to give the impression that the supplementary judgments were the product of Referee Shapiro. The withdrawn Rogin-Hirtle included a fraudulent citation with the encumbrances that could never be served or executed; the Rogin-Hirtle firm stuffed a false purported service on all parties in File #163875 that was unequivocal FRAUD.

The ONLY submission made by Referee Shapiro, that is not part of Superior Court Records, was a memo of July, 1980 to Jason Pearl, Esq., representing Rogin-Hirtle AFTER the Supreme Court decision of May, 1980, that there were several senior lien-holders that had to be notified and served, he did not have the time or staff, and, the matter should be referred back to the Superior

Court. THERE ARE STILL SENIOR LIEN-HOLDERS AS OF PREPARING THIS PETITION.

39. The continued inferring, proclaiming, badgering of counsel, insisting that the Appellate and Supreme Court were proceeding on the basis of a judgment of Referee Shapiro is a besmirchment upon the fine record of the Referee, inappropriate conduct by the Appellate Court that reflects in the transcript of criminal proceedings against Plaintiff/Owner and Counsel Geoffrey Naab in the year 2000. The return to the Treasury on December 23, 1991, of the fraudulent Slush Fund; the filing on the Land Records by Plaintiff of "Dissolution of Attachments" on December 1, 1996, signifies there is not, never was, any judgments before the Superior Court for the Acquisition of Parcel "C" – with a Federal navigational installation thereon.

UNIFORM REAL PROPERTY ACQUISITION ACT

40. Article VI of the Constitution provides that the laws of the United States "shall be the Supreme Court of the land; . . . anything in the Constitution or laws of any state to the contrary notwithstanding." Art. VI CL.2. *Cippollone v. Liggett Group, Inc.*, 112 S. CT. 2608 AT 2617 (1992).

"Congress intent may be explicitly stated in the Statute's language or implicitly contained in its structure and purpose." *Jones v. Roth Packing Co.*, 430 US 519, 525, 97 S. CT. 1305, 1309, 51 L. Ed 2d 604 (1977).

When Congress has considered the issue of preemption and has included in the enacted legislation a provision explicitly addressing that issue, and when that

provision provides a "reliable indicum of congressional intent to preempt state laws from the substantive provisions" of the legislation. *California Savings & Loan Association v. Guerra*, 479 US 272, 282, 107 S. CT. 683, 690, 93 L. Ed 2d 613 (1987).

41. THE CLEAR AND MANIFEST PURPOSE OF CONGRESS IN THIS CASE IS FOUND IN THE PROVISIONS OF 42 USC §§ 4653, 4654, 4655 THAT MANDATES REIMBURSEMENT OF ATTORNEY FEES, COSTS, LOSS OF PROFITS FROM LEASES – UPON ABANDONMENT FROM PARCEL A AND PARCEL C.

42. As regards Plaintiff/Owner's Parcel "C" the usual taking occurs when the government physically acquires property for itself. *Chicago, B. & O.R. Co. v. Chicago*, 16 US 226, 17 S. CT. 581, 41 L. Ed. 979 (1897).

The classic taking case . . . Government directly appropriates private property for its own use. *United States v. Security*, 459 US 70, 78, 103 S. CT. 407, 412, 74 L. Ed. 2d 235 (1982).

(Physical invasion "is a government action of such a unique character that is a taking without regard to other factors"), *Hodel*, 461 US AT 715, 716, 107 S. CT. AT 2082-2083 (1978).

The U.S. Supreme Court ruled a taking has occurred in *Webb's Fabulous Pharmacies v. Beckwith*, 449 US 155, 101 S. CT. 446, 66 L. Ed. 2d 358 (1980); also in *United States v. Causby*, 328 US 256, 66 S. CT. 1062, 90 L. Ed. 1206 (1946) that is analogous to the physical invasion on the surface of private property, by Government, in case at bar. The

5th and 14th Amendments mandate just compensation from date of taking – thirty-seven years ago.

43. Relative to Plaintiff/Owner's Parcel "A" that was condemned twice, ruled null and void twice by the Connecticut Supreme Court (160 Conn. 492 (1971)), ABANDONED after the second ill-fated condemnation with a recording on the land records at Vol. 52, pages 242-243 (March 1972) of Town of East Granby, CT with no further attempts at condemnation that could be justified, there is no "good reason to believe" that congress meant *less* than what it said upon ABANDONMENT, attorney fees and other costs must be paid under § 4654. Where the two attempted condemnations extended over a period of ten (10) years (1962-1972), the attorney fees, expert witnesses, loss of income from leases on the land records was SUBSTANTIAL, much greater than the value of the land.

44 Moreover, common law damages actions of the sort raised by petitioner are premised on the existence of a legal duty, and it is difficult to say that such actions do not impose "requirements or prohibitions". W. Prosser, Law of Torts 4 (4th ed. 1971); Black's Law Dictionary 1489 (6th Ed. 1990) (Defining "TORT" as "always [invading] a violation of some duty owing to plaintiff).

45 Where Plaintiff alleges intentional fraud and misrepresentation by private counsel both by "false representation of a material fact [and by] concealment of a material fact – and law, the clear and manifest purpose of congress mandating the U.S. Department of Transportation promulgate regulations conforming to the guidelines of the Uniform Act – be rigidly adhered to, obligating the state courts, including the State Supreme Court, comply with

the constitutional obligation to address damages pursuant to 42 USC §§ 4653, 4654, 4655 referenced in #33.

CONCLUSION

46) Wherefore, Plaintiff/Owner prays this Court Order the Sponsor, Connecticut Department of Transportation, comply with the inverse condemnation provision of Federal Law (49 CFR § 24.102) and pay commensurate damages in accord with Federal Law. Sec. (L) reads:

Inverse Condemnation. If the agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

Whereas: No decisive hearings at the Superior Court level, or, before the Appellate or Supreme Court were ever had on the issues of constitutionality, compensation, due process, deprivation of constitutional rights against the acquisition of real property under a Federal-Aid Grant Agreement in case at bar, Plaintiff/Owner hereby requests a hearing on this petition testing constitutionality and jurisdiction.

Whereas: The CORRUPT-TO-THE-CORE PRIVATE COUNSEL (Rogin-Hirtle, Esq.'s) TERMINATED, (#3) the lawyer-client relationship with a WITHDRAWAL (#3) on April 19, 1978; solidified the TERMINATION with an attachment of all Plaintiff's properties on April 20, 1978; EXTINGUISHING any rights, authority, jurisdiction to submit or file any claims, counter-claims, stipulations,

agreements with the Court of Competent Jurisdiction; Plaintiff requests the status of all cases revert to their respective positions PRIOR to the abbreviated tenure of the withdrawn counsel.

Respectfully submitted,

/s/ Augustus Simmons
Augustus Simmons
P.O. Box #1
Windsor, Connecticut 06095
(860) 569-6714

CERTIFICATION

Plaintiff/Owner, Augustus Simmons, hereby certifies a copy of this petition to test constitutionality and jurisdiction has been sent, postage prepaid, this 11th day of June, 2001, to the following:

James F. Sullivan, Commissioner
Connecticut Department of Transportation
2800 Berlin Turnpike, P.O. Box 317546
Newington, CT 06131-7546

Richard Blumenthal, Attorney General
55 Elm Street
Hartford, CT 06106

Rogin, Nassau, Caplan, Lassman and Hirtle
1 City Place
Hartford, CT 06103

Jane F. Garvey, Administrator
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, DC 20591

Robert S. Bartanowicz, Regional Director
12 New England Executive Park
Burlington, MA 01803

Acting Solicitor General, Barbara Underwood
950 Pennsylvania Avenue, N.W., Room 5614
Washington, DC 20530-0001

Michael DiDonato, Chief Clerk
Superior Court
85 Washington Street
Hartford, CT 06106

John Malone
State Attorney's Office
State of Connecticut Court House
Enfield, CT 06082

/s/ Augustus Simmons
Augustus Simmons
P.O. Box #1
Windsor, Connecticut 06095
(860) 569-6714

[EXHIBIT A-1]

March 6, 2001

MOTION REGARDS JURISDICTION

Memorandum of Law on Jurisdiction

Under Special Act #170 (*Simmons v. Wetherall*, #163875) Rogin-Hirtle, Esq.'s-Referee Shapiro, L. and the State Supreme Court could exercise jurisdiction only "Under the precise circumstances and in the manner particularly prescribed by the enabling legislation". *Heiser v. Morgan Guaranty Trust Co.*, 150 Conn. 563, 565, 192 A.2d 44 (1963), *Castro v. Viera*, 207 Conn. at 427-428.

A more recent Connecticut citation characterizing "Jurisdictional Facts" necessary to the validity of any judgement can be found in *Castro v. Viera*, 207 Conn. 420 (1988) at page 423. The citations characterized "Jurisdictional Facts" as follows:

Jurisdiction over the person, jurisdiction over the subject matter and jurisdiction to render the particular judgement are three separate elements of the jurisdiction of a court. Each element of jurisdiction is dependent upon both law and fact. Facts showing the service of process in time, form and manner sufficient to satisfy the requirements of mandatory statutes in that regard are essential to jurisdiction over the person. Facts showing that the matter involved in a suit constitutes a subject matter consigned by the law to the jurisdiction of that court are essential to jurisdiction over the subject matter of the suit. Facts showing that a particular judgement is rendered in compliance with all existing mandatory law in that regard are essential to jurisdiction to render a particular

judgement. All such facts are known as "Jurisdictional Facts". Their existence is fundamental to the power to entertain and adjudicate a proceeding on the merits. In short, such facts condition the power to act. *In re First National Bank*, 152 F. 64, 69 (8th Cir. 107 [sic]), *Valenzula v. Singleton*, 100 N.M. 84, 87, 666 P.2d 225 (1982).

SUBJECT MATTER JURISDICTION, 180 Conn. 587 (1980)

It would appear that when subject matter jurisdiction was argued by the State (Attorney General's Office) before Honorable Dupont, A. on June 7, 1982 that it would encompass the acts of the Supreme Court (180 Conn. 587), also where the Supreme Court, by statute, can only review judgements of the lower court.

If the Supreme Court felt that the challenge of subject matter jurisdiction and the parties by the State applied to the lower Court only and was not applicable to the Supreme Court, then, Plaintiff/Owner whose constitutional rights have been grossly abridged, excerpts from the transcript at page 17 and 18 (Honorable Dupont, 6/7/82) in using the exact same challenge to the Supreme Court where jurisdictional defects can be raised at any time: 71c270; 72c430; 74c265; 79c58; 85c517; 89c200; 90c293; 92c649; 104c323; 112c579; 115c678; see 97c123. A plea-questioning jurisdiction must be decided even if late. 162c625. Under section 66-8 (formerly 4056) of Supreme Court rules a motion based on lack of jurisdiction may be filed at any time.

Plaintiff/Owner directs to the Supreme Court, word for word from the transcript of 6/7/82 the challenge that reads:

> "I now direct your Honor, and invite your Honor's attention to another element of jurisdiction in the entire matter of Simmons against Wetherall. I might say that whenever I call your Honor's attention to the question of Jurisdiction, in accordance with the law of the State, if lack of jurisdiction is brought to your Honor's attention, I mean subject matter jurisdiction, no matter in what form or in what way, your Honor cannot proceed on any of the proceedings until you resolve the issue of subject matter jurisdiction. If per chance the jurisdiction question is interwoven now with many other prior motions that have not been acted upon, and it has happened, that it arises on the motions of a claimed predictor of Mr. Simmons, it does not matter so long as this Court, the question of jurisdiction is called to your Honor's attention."

As stated in the Connecticut case of *Lynch v. Household Finance Corp.*, 405 U.S. 538 at 557. A State court obtains jurisdiction of the action and of questions concerning the garnishment when return of process is made to that court. *Stephenson* at 67.

Plaintiff/Owner quotes from the jurisdiction hearing before Honorable Dupont, A. on June 7, 1982, relative to notice and service to interested parties by Attorney Walter Bass, representing lien holders, Valente and Allaire, that read:

> "First of all, I would object to Mr. Feingold at this time questioning the jurisdiction of the court to hear this case. Secondly, your Honor, in Mr. Feingold's recitation that he gave your Honor this morning, I forgot which paragraph he referred to in Judge Shapiro's decision, there

> was to be a citation issued so that all people would come forth and present their claims. I have a right to inform the Court that in the citation, my two clients were listed under the care of my office. I will state to the court that I have never been served any citation nor has my clients ever been served with any kind of a citation to give us any notice to come in to determine what our priorities are in this matter."

Upon examination of the citation (Exhibit #I), the name and address of the Plaintiff/Owner was intentionally and maliciously excluded and the rendering of 180 Conn. 587 without the Court having jurisdiction of any of the parties is unconstitutional and violative of basic due process laws of the United States. To further point up the fact that the Supreme Court was acting without jurisdiction of the subject matter or the parties is the Plaintiff/Owner's submission to the Town Clerk of East Granby, Connecticut of *"Dissolution of Attachments."* Pursuant to C.G.S. section 52-327 (Exhibit #J) filed on the land records on December 2, 1996. Additionally, where Federal Funds are involved where Federal Project is in effect of Plaintiff's parcel "C", certain pre-requisites mandated on all states no later than 7/2/72 by the United States Congress with the enactment of the Uniform Real Property Acquisition Act (P.L. 91-646) and the regulations promulgated (49 C.F.R. section 24.102 basic acquisition policies) which must be complied with in order to acquire subject matter jurisdiction, and, be eligible for Federal Funding.

In summary, a jurisdictional issue, however raised must be considered. 34cs 114. Appeals to the Supreme Court lies only from final judgments. 167c 283.

No principle is more universal than that the judgment of a court without jurisdiction is a nullity. *Clover v. Urban*, 108 Conn. 13, 17, 142 A. 389; *Wood v. Watkinson*, 47 Conn. 500, 503; *Strong v. Strong*, 8 Conn. 408, 412; 3 Freeman – Judgments (5th ed.) p. 668; 31 Am. Jur. 72 § 409. Such a judgment, whenever and wherever declared upon as a source of a right, may always be challenged. Restatement, Judgments, § 11 Comment C; see *Frick v. Hartford Life Ins. Co.*, 98 Conn. 251, 255, 119 A. 229. This does not offend the full faith and credit clause of the federal Constitution. *Williams, v. North Carolina*, 325 U.S. 226, 229, 65 S.Ct. 1092, 89 L.Ed. 1577; see *Rice v. Rice*, 134 Conn. 440, 445, 58 A.2d 523; *Hooker v. Hooker*, 130 Conn. 41, 47, 32 A.2d 68. Nor does it violate the principles of comity. *Freund v. Burns*, 131 Conn. 380, 385, 40 A.2d 754.

Questions of lack of jurisdiction may be raised at any time, even by the court *suo motu*. The parties cannot confer jurisdiction of the subject matter by consent, waiver, silence or agreement. *Simmons v. State*, 160 Conn. 492 (1971).

"It is an acknowledged principle of . . . every court in the world, that not only the decisions, but everything done under the judicial process of courts, not having jurisdiction, are ipso facto, VOID." *Martin v. Hunter's Lessee*, 14 U.S. (1 wheat) 304, 364, 4 L.Ed. 97 (1816); *Chrysler Credit Corp. v. Fairfield Chrysler*, 180 Conn. 223, 229, 429 A.2d 487 (1980) (Loiselle, J. concurring); *Marshall v. Clark*, 170 Conn. 199, 205, 365 A.2d 1202 (1976). "If a

court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack." *Bartels v. International Commodities Corp.*, 435 F.Supp. 865, 867 (D. Conn. 1977).

[EXHIBIT A-2]

STATE OF CONNECTICUT

SUPREME COURT

NO. HHD CV70-0163875S

AUGUSTUS J. SIMMONS

v. : MAY 31, 2000

HORACE B. WETHERALL
ET AL.

ORDER

THE MOTION OF THE PLAINTIFF, FILED MAY 1, 2000, TO VACATE, HAVING BEEN PRESENTED TO THE COURT, IS HEREBY ORDERED DISMISSED.

IT IS FURTHER, ORDERED THAT THE PLAINTIFF IS HEREBY PROHIBITED FROM FILING PLEADINGS IN THIS COURT THAT ARE RELATED TO DOCKET NUMBER CV70-0163875.

BY THE COURT,

/s/ Francis Drumm
CHIEF CLERK

NOTICE SENT: MAY 31, 2000
AUGUSTUS SIMMONS, PRO SE
PAUL K. FERNEREWSKI, ASSISTANT
ATTORNEY GENERAL
ROGIN, NASAU, CAPLAN,
LASSMAN & HIRTLE
CLERK, HARTFORD J.D.
HON. JOHN J. LANGENBACH